IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

WP(C).No. 13022 of 2007(A)

PETITIONER:

AMBILI R. NAIR, AGED 23 YEARS,
CHAKAROOR HOUSE, CHERUKOLE P.O.,
KOZHENCHERRY, PATHANAMTHITTA DISTRICT.

BY ADV. SRI.R.RENJITH
SRI.M.T.SURESH KUMAR

RESPONDENTS:

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1. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM.

2. THE ASSISTANT REGISTRAR OF CO-OPERATIVE
SOCIETIES, OFFICE OF THE ASSISTANT REGISTRAR OF
CO-OPERATIVE SOCIETIES, PATHANAMTHITTA.

3. THE CHERUKOLE SERVICE CO-OPERATIVE
BANK LTD.NO.Q 488, CHERUKOLE P.O.,
KOZHENCHERRY, REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.MVS.NAMBOOTHIRY for R3
GOVERNMENT PLEADER, SRI P.K.RAVIKRISHNAN FOR R1 AND R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 13022 of 2007(A)

APPENDIX

PETITIONER'S EXTS:

EXT.P1: TRUE PHOTOSTAT COPY OF THE APPLICATION FOR EMPLOYMENT ASSISTANCE UNDER RULE 188A SUBMITTED BY THE PETITIONER.

EXT.P2 TRUE PHOTOSTAT COPY OF THE COMMUNICATION NO.140/2006.07 DATED 2/4/2007 ISSUED BY THE 3RD RESPONDENT.

EXT.P3 TRUE PHOTOSTAT COPY OF THE REPRESENTATION DATED 21/04/2007 SUBMITTED BEFORE THE 3RD RESPONDENT BANK.

EXT.P4 TRUE PHOTOSTAT COPY OF THE COMMUNICATION DATED 03/05/2007 ISSUED FROM THE OFFICE OF THE JOINT REGISTRAR (GENERAL), PATHANAMTHITTA.

EXT.P5 TRUE PHOTOSTAT COPY OF THE CERTIFICATE DATED 28/04/2007 ISSUED BY THE THAHSILDAR RANNI.

3RD RESPONDENT'S EXTS:

EXT.R3(a) TRUE COPY OF RESOLUTION NO.700 DATED 27/3/2007

\\TRUE COPY//

THOTTATHIL B. RADHAKRISHNAN, J.

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W.P.(C) No. 13022 of 2007-A

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Dated this the 7th day of December, 2007

J U D G M E N T

The petitioner's mother, a widow, then working as menial in the service of the third respondent, died in harness on 05/09/2006, leaving behind, her mother, a son and the petitioner. The petitioner promptly applied for appointment on compassionate grounds, in terms of Rule 188A of the Kerala Co-operative Societies Rules, 1969. The third respondent issued Ext.P2 rejecting that claim for the reason that the petitioner is married, a fact not in dispute.

2. Married on 18/05/2006, the petitioner states that her husband is unemployed and that her grandmother also was depending on the deceased. Going by the pleadings in the writ petition, the petitioner, her husband and her grandmother reside in the house where the deceased was living. It is also contended that the petitioner is attempting to support the grandmother also. Going by

Ext.R3(a), the third respondent has also taken a view that the petitioner is dependent on her husband following her marriage.

3. On record are certificates issued by the revenue authorities identifying the heirs of the deceased. Also available are certain other documents. It is also open to the third respondent to make such enquiry, as it deems fit, to get at the truth of the matter, to conclude whether the petitioner is entitled to be considered for appointment, in terms of Rule 188A(4) of the K.C.S Rules. All other relevant facts including the financial status are also matters on which the third respondent has to take a decision, particularly, when the petitioner does not dispute the case of the third respondent that her brother is employed as a lower division clerk.

4. This writ petition was admitted to filed on 13/04/2007 and an interim order was issued on that day to make any appointment in the last grade only by foreseeing that there is likelihood of such appointment being interfered by this Court. During the pendency of the proceedings, the third respondent conducted a selection and chose a candidate and made an appointment. Obviously, that

appointment is provisional and subject to the decision to be rendered in this case.

In the result, this writ petition is allowed, quashing Ext.P2 and directing the third respondent to give the petitioner an opportunity of being heard. The third respondent will be at liberty to make such enquiry as it deems fit to get at the true and relevant facts and decide for itself, as a reasonable employer, as to whether the petitioner is entitled to appointment in terms of Rule 188A of the K.C.S Rules. A final decision shall be taken within three months from the date of receipt of a copy of this judgment and the appointment of any person, after the interim order dated 13/04/2007, as a menial in the service of the third respondent, will be provisional and subject to the decision that the management may take as aforesaid.

THOTTATHIL B. RADHAKRISHNAN,
Judge

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